

Summary of necessary changes to NC law in order to comply with SORNA

*Updated October 2011

Convictions

- Conviction must include anyone who has "penal consequences"
 - NC currently uses "final conviction"
- Add "conspiracy" to commit a sex offense
- Add foreign convictions from reliable countries, such as Canada, UK, etc.
- Prior convictions prior to 1996 (NC enactment) must register. Must provide that any person who comes in to contact with the system for any felony offense (even non-sex offenses) must register for any prior sex offense, no matter how long ago committed.
- Must add G.S. 14-27.7A(b) (statutory rape when offender is more than 4, but less than 6 years older than the 13, 14, or 15 year old)
- Must require registration of juvenile adjudications where the juvenile is 14 years old or older at the time of offense and the offense is a certain level.

Supplemental guidelines issued in January 2011 now allow states to choose to not include this information on the public registry. These juveniles must still be required to register and otherwise comply with all adult registration requirements. (NC currently has a juvenile registry for certain offenses for juveniles 11 years old or older, but it is at the discretion of the judge and it is not a public registry.)

- Registration must be required for these juveniles for offenses equal or greater than "aggravated sexual abuse"
 - Sexual act by force or threat
 - Rendering a person unconscious and engages in sexual act
 - Administers drug that substantially impairs conduct and engages in sexual act.
 - With child under 12
 - With child at least 12, less than 16 and offender at least 4 years older

Tiers

- If we keep our 2 "tier" system:
 - Must raise minimum length of current "tier" I to 15 years. Currently this level is 30 years, but can be removed after 10 years.
 - Must move several offenses that are currently on the 30 years registry to our lifetime registry.
 - Or we could leave them on the 30 year registry, but not allow the reduction to 15 years for those offenses, however, this would essentially create a 3rd tier, so it would be clearer if we just established 3 tiers.
 - Examples (not a complete list) of some offenses that would need to be moved to lifetime, or not allowed a reduction are:
 - G.S. 14-190.18 – promoting prostitution of a minor
 - G.S. 14-190.19 – participating in prostitution of a minor
 - G.S. 14-190.16, 14-190.17, & 14-190.17A – first, second & third degree sexual exploitation of a minor
 - Our current "offenses against a minor" would have to be moved to lifetime registration.
- If we go to 3 "tier" system, minimum requirements are:
 - Tier I – 15 years – can provide for reduction to 10 years
 - Tier II – 25 years
 - Tier III – Lifetime – can be reduced to 25 years for juveniles
 - Certain offenses required in each tier. Would also require changing the time period of registration on some offenses.
- Generally:
 - Under SORNA, the registration requirement is sometimes dependent on the age of the victim. SORNA requires that the actual age of the victim be considered in determining the registration requirement **even if the offense being charged does not have the age of the victim as an element of the offense.**
 - For example: A person charged with sexual battery would be Tier I if the facts of the case were that the victim was not a minor, Tier II if the facts of the case were that the victim was at least 13, but under 18, and Tier III if the facts of the case were that the victim was under 13.

Registration Information

Below is a list of all information required to be **collected** under SORNA. Those items in **bold underline** are items that NC does not currently collect or is not in complete compliance.

- Names & Aliases
- Internet IDs & addresses
- **Telephone numbers** – both land line and cell phone
- **Social Security Number**
- Residence Address
- **Other Residence Info** – general description of area if no fixed address, etc.
- **Temporary Lodging** – any place staying 7 or more days
- **Travel & Immigration Documents** – copies of passports and immigration status documents if any
- **Employment Info** – employer name & address whether or not compensated, including volunteer activities; also information on where regularly work if don't work at a fixed location. NC currently only collects this info if the person is employed at an institution of higher education.
- **Professional Licenses**
- **School Info** – name and address of any school attends. Requirement includes secondary schools, NC currently only requires this information for postsecondary schools.
- **Vehicle Info** – license plate number and description of vehicle for any vehicle the registrant owns or regularly drives for personal or work use. Also includes watercraft and aircraft and vehicles for which no license plate is required, but which have another type of registration or ID # . Also must report where the vehicles are regularly parked, docked, kept, etc.
- Date of Birth
- Physical Description
- **Text of Registration Offense** – must be actual text of offense **at the time the offense was committed**. NC currently puts the citation of the statute, but does not distinguish between the current language of that statute and what the language might have been at the time the offense was committed.
- **Criminal History** – all arrests & convictions; parole, probation or supervised release status; any outstanding arrest warrants.
- Current photo
- Fingerprints
- **Palmprints**
- **DNA** – NC does take DNA samples of anyone convicted of a felony and a couple of specifically enumerated misdemeanors pursuant to G.S. 15A-266.4. However, that statute would need to be amended to include a DNA sample for at least one other misdemeanor (indecent liberties with a student) required to be registered under SORNA. There is also the question of whether certain misdemeanor offenses that may be required to register at the discretion of the court (such as a

second violation of G.S. 14-202(a) - secret peeping) but are not offenses required to register under SORNA must also have DNA samples collected.

- **Drivers License/ID Card** – requires a photocopy, NC currently only takes the drivers' license number

Dissemination of Registry Information

- Information that **MUST** be available to the public:
 - Name
 - Address or location
 - Vehicle description & license plate #
 - Physical description
 - All sex offenses for which convicted
 - Current photo
- Information that **CANNOT** be available to the public:
 - Victim's identity
 - Social Security number
 - Arrests not resulting in conviction
 - Travel & Immigration Document numbers
 - Offender E-mail addresses and online identifiers
- States may choose to exempt the following from the public registry:
 - Tier I offenders that have not committed a sex offense against a minor
 - Name of offender's employer, but must still include address
 - Name of offender's school, but must still include address
 - Offenders required to register based on a juvenile adjudication

Registration generally – Jurisdiction = State

- Must initially register in the jurisdiction of conviction, but do not have to maintain registration in that jurisdiction if not residing, employed or a student there.
- Must register in any jurisdiction reside, employed or student.
- Must complete initial registration **prior to release from incarceration.**